

### **Amendments to the Claims**

This listing of claims will replace all prior versions, and listings, of claims in the application:

#### **Listing of Claims**

1-70. (Canceled)

71. (Currently Amended) A surgical spinal access system for receiving spinal instruments, comprising:

a retractor having:

a proximal end and a distal end, the proximal end having an access opening and the distal end sized for insertion into an incision in a patient, the proximal end and distal end having inner surfaces defining an access path, the retractor configured such that the access opening is positioned outside the patient during use,

the retractor being configured for an unexpanded configuration completely surrounding the access path during insertion into the incision, and an expanded configuration when located a surgical site in the patient,

the retractor when in the expanded configuration configured to expand to provide maximum exposure to a surgical site at the distal end; and

an expander having a first portion pivotally connected to a second portion, the first and second portions structured to be inserted through the access path and engage the inner surface of the distal end of the retractor, wherein pivoting the first and second portions away from each other moves the retractor from the unexpanded to the expanded configuration, wherein the retractor is structured to remain in the expanded configuration when the expander is withdrawn from the access path.

72. (Previously Presented) The surgical spinal access system of claim 71, wherein in the expanded configuration the distal end has a first dimension greater than a second dimension located at the proximal end of the retractor.

73. (Previously Presented) The surgical spinal access system of claim 71, wherein the distal end has a cross-sectional area greater than a cross-sectional area at the access opening at the proximal end of the retractor.

74. (Previously Presented) The surgical spinal access system of claim 71, wherein the retractor has first and second portions, wherein the access path in the first portion has a constant diameter, wherein the second portion is configured for movement from the unexpanded to the expanded configuration.

75. (Previously Presented) The surgical spinal access system of claim 71, wherein in the expanded configuration the distal end of the retractor completely surrounds the access path.

76. (Previously Presented) The surgical spinal access system of claim 71, wherein the distal end of the retractor is formed from a single piece of metal interconnected through a guide and a slot formed in the distal end.

77. (Canceled)

78. (Withdrawn) A method of treating the spine of a patient, the method comprising the steps of:

providing a retractor comprising:

a proximal end and a distal end, the proximal end having an access opening and the distal end sized for insertion into an incision in the patient,

the retractor being configured for an unexpanded configuration completely surrounding an access path during insertion into the incision, and an expanded configuration when located a surgical site in the patient,

the retractor when in the expanded configuration configured to expand to provide maximum exposure to a surgical site at the distal end, and

the retractor having sufficient rigidity to retract tissue;

- making an incision in the patient's skin;
- introducing said retractor into the incision with said proximal end positioned outside the patient and said distal end placed at the surgical site;
- providing an expander;
- engaging the retractor with the expander;
- moving the retractor from the unexpanded configuration to the expanded configuration;
- passing one or more instruments through the retractor;
- performing a surgical procedure through the retractor; and
- removing the retractor from the incision in the patient.

79. (Previously Presented) The surgical spinal access system of claim 71, wherein the first and second portions of the expander each have proximal and distal regions, wherein when the expander is inserted into the access path of the retractor, moving the proximal regions towards each other pivotally actuates the distal regions away from each other thereby moving the retractor from the unexpanded to the expanded configuration.

80. (Previously Presented) A surgical spinal access system for receiving spinal instruments comprising:

- a retractor having a proximal portion and a distal portion and an access path extending therethrough, the retractor structured such that the proximal portion is positioned outside a patient when the distal portion is adjacent a spinal surgical site, the retractor structured to expand from an unexpanded to an expanded configuration, wherein when in the expanded configuration, the maximum exposure to the surgical site is at a distal end of the retractor; and

- an expander having first and second legs structured to be inserted into the access path and engage an inner surface of the distal portion of the retractor, wherein movement of the first and second legs away from each other moves the retractor from the unexpanded to the expanded configuration, wherein the retractor is structured to remain in the expanded configuration when the expander is withdrawn from the access path.

81. (Previously Presented) The surgical spinal access system of claim 80, wherein the first and second legs are pivotally connected to each other.

82. (Previously Presented) The surgical spinal access system of claim 80, wherein the distal portion of the retractor has a guide and slot and the guide moves along the slot when the retractor moves from the unexpanded to the expanded configuration.

83. (Previously Presented) The surgical spinal access system of claim 80, wherein the proximal and distal portions of the retractor are separate portions connected by a fastener.